



WISCONSIN CORONERS & MEDICAL EXAMINERS ASSOCIATION

To: Representative Leah Vukmir, Chair
Members of the Assembly Committee on Health and Healthcare Reform

From: Al Klimek, President – Wisconsin Coroners & Medical Examiners Association

Re: Support AB 783

Date: March 6, 2008

Thank you Chair Vukmir and Members of the Assembly Committee on Health and Healthcare Reform for the opportunity to present written support for AB 783. This bill is the result of many discussions from a previous session, when a special Legislative Council Study Committee proposed to delete from the Constitution, the office of Coroner. There were a variety of suggestions during the Special Study Committee meetings about the role and duties of Medical Examiners and Coroners at the county level. The chair of the Special Committee, former Representative Ann Nischke, left office before formalizing a final proposal that could be presented to lawmakers for consideration.

The scope of the Special Committee on the Powers and Duties of Coroners and Medical Examiners was to review current laws and practices on the roles of Coroners and Medical Examiners, and the reporting and investigation of deaths to determine if laws should be revised for enhanced organization and clarity, and to achieve greater efficiency, uniformity, and quality in the reporting death investigations. There was a lot of heated discussion about training standards that should be in place for Coroners/ME's even though no final proposal came forward.

The Wisconsin Coroners and Medical Examiners Association (WCMEA) represents and serving all citizens of the State of Wisconsin through our Coroners and Medical Examiners. We wish to thank the main bill sponsors, Representative Vruwink and Senator Lassa, who agreed to work with us to sponsor this comprehensive legislation before you today as SB 428 / AB 783. Conversations about the need to update Coroners and Medical Examiners first began in 1992 but legislation never moved forward.

Our bill draft incorporates many of the discussions by lawmakers who wanted to also retain the constitutional authority of Coroners, and retain the existing authority of county government to use either a Coroner or Medical Examiner.

What does this legislation do? This bill creates a Board on Medicolegal Investigation that is attached to the Department of Justice. Criteria for minimum training standards would be developed through the rule-making process. The Board would create minimum training standards to further improve and standardize qualifications for anyone serving as a Coroner or Medical Examiner. Currently the state's Constitution does not require anyone who serves as Coroner/Medical Examiner to have any special background or training. However, the majority of Wisconsin Coroners (elected) and Medical Examiners (appointed) come from a medical or law enforcement background. A critical component of this bill is the minimal funding needed for the Board. Training cannot be mandated on Coroners and Medical Examiners without sufficient funding because county government would oppose another unfunded mandate.

We continue to work with the Department of Justice to make some additional changes to the bill that they have requested.

We urge your support for this legislation and thank you for your consideration.

HIGHLIGHTS OF AB 783 / SB 428:

Create a separate oversight Medicolegal Board with diverse representation from professionals involved in death, death investigations, and life saving measures such as organ and tissue donations. This Board would develop training standards for Coroner/Medical Examiner competency.

BOARD ON MEDICOLEGAL INVESTIGATIONS

This bill creates a Board on Medicolegal Investigations (Board) that is attached to the Department of Justice and requires the Board to establish training and testing requirements for Coroners, Deputy Coroners, Medical Examiners, and Medical Examiner assistants. The bill requires the Board to notify the appropriate county board if a Medical Examiner does not satisfy the training and testing requirements, and to notify both the governor and the appropriate county board if a Coroner does not satisfy the training and testing requirements. The bill provides that failure to satisfy the training or testing requirements constitutes cause for a county board to remove a Medical Examiner and cause for the governor to remove a Coroner.

The bill also requires the Board to promulgate rules regarding the content and maintenance of, and public access to, Coroner and Medical Examiner death investigation records. And, finally, the bill requires the Board to develop a form that Coroners and Medical Examiners must use when issuing permits for disinterment or reinterment.

DEATH INVESTIGATIONS

Statute 979 clarifies that the Coroner or designated Medical Examiner that has primary responsibility for death investigations within his or her county.

REPORTING DEATHS

This bill streamlines and clarifies the reporting process for reporting deaths because multiple disciplines are involved and specifies fines for failing to report a death. The bill also specifies what deaths must be reported.

Under current law, any person who has knowledge of certain deaths must report the death to the sheriff, police chief, or Medical Examiner or Coroner for the locality in which the death occurred. If a death must be reported, any person who has knowledge of the death must report it to the Coroner or Medical Examiner and may, in addition, report it to a law enforcement officer.

JURISDICTION TO INVESTIGATE DEATH AND NOTIFICATIONS

The bill clarifies who has jurisdiction to investigate a death. The Coroner or Medical Examiner in the county in which occurred the crime, injury, or other event that caused the death has initial jurisdiction. However, if the event that caused the death and correct location can't be determined, or if the death occurred outside the state, the Coroner or Medical Examiner in the county in which death was pronounced has jurisdiction to investigate.

The bill clarifies no body can be removed from a death scene without Coroner or Medical Examiner authority.

The bill requires a Coroner or examiner who receives notice of a death to notify the deceased's next of kin. The bill removes the requirement to notify a DA of certain kinds of death (i.e. natural causes), if the District Attorney has waived notice in writing.

AUTOPSIES AND OTHER DIAGNOSTIC PROCEDURES

Currently, a Coroner, Medical Examiner, or District Attorney may order an autopsy conducted on a body if there is reason to believe that the death resulted from a homicide or other crimes, or it was suicide, unexplained death or there are suspicious circumstances. This bill specifies that no one can conduct an autopsy of a reportable death without obtaining written authorization from the Coroner or Medical Examiner. A Coroner or Medical Examiner must also order an autopsy on any person who dies while confined in a correctional facility.

TAKING BODY SPECIMENS

Under current law, if an autopsy is not performed in connection with a death that must be reported, the Coroner or Medical Examiner may take specimens from the body for analysis to assist in determining the cause of death. This bill also creates an option for the Coroner or Medical Examiner to take specimens for analysis if requested to do so by the spouse, parent, child, or sibling of the deceased.

MANDATORY AUTOPSY FOR A VARIETY OF DEATHS

The bill requires a Coroner or Medical Examiner to order an autopsy for certain kinds of deaths.

Under the bill, if a Coroner or Medical Examiner does not order an autopsy for a death that must be reported, the bill requires the Coroner or Medical Examiner to inform the deceased's representative that the representative may independently contract for pathology related services.

The bill repeals the requirement that, when applicable, Coroners and Medical Examiners cite sudden infant death syndrome as the cause of death in an autopsy report.

DEATH INVESTIGATION RECORDS AND HANDLING OF PERSONAL PROPERTY

The bill requires that each Coroner or Medical Examiner keep confidential records of each death investigation and specifies the contents of the records.

The bill also specifies that a Coroner or Medical Examiner may only release confidential records to persons who have authority to access the deceased's health care records without informed consent, usually a family member.

The bill also requires that each Coroner or Medical Examiner maintain written policies regarding access to death investigation records.

INVENTORY OF PERSONAL PROPERTY

The bill requires a Coroner or Medical Examiner to maintain an inventory of personal property that the Coroner or Medical Examiner takes from a death scene or from a deceased. The bill specifies that the Coroner or Medical Examiner must destroy or donate to a drug repository program any prescription medications that the Coroner or Medical Examiner collects in an investigation and does not provide to a law enforcement agency.

DISPOSITION OF BODIES

The bill specifies certain information that Coroners and Medical Examiners must include on an authorization for embalming form, and it eliminates the general 12 hour deadline.

CREMATION PERMIT

Under current law, a Coroner's or Medical Examiner's authorization is required for cremation of the body of any deceased person, which may not occur within 48 hours of death, or discovery of death, unless the death was caused by a contagious or infectious disease. A Coroner or Medical Examiner must view a body and make inquiry into the cause and manner of death before issuing a cremation permit.

The bill requires that if the medical certification of the cause and manner of death on a death certificate is completed by a physician, the Coroner or Medical Examiner must review the medical certification before issuing a cremation release. The bill further requires that a Coroner or Medical Examiner must specify on a cremation release the earliest date and time that cremation may occur. Finally, the bill requires that a person who receives a body for medical research or education must obtain a cremation release before receiving the body.

AUTHORIZATION TO DISINTER AND REINTER

The bill clarifies that no person, other than a cemetery, may disinter a body or human remains without authorization from the Coroner or Medical Examiner.

BURIAL COSTS

Under the bill, if a Coroner or Medical Examiner buries or cremates an unidentified or unclaimed body, the county must pay the costs of burial or cremation.

The bill further provides that if the Coroner or Medical Examiner makes reasonable efforts to identify a body and notify the deceased's representative of disposal of the body, the Coroner or Medical Examiner is immune from civil liability for his or her choice of method for disposing of the body.

MENTAL HEALTH TREATMENT RECORDS

This bill changes current law to allow a Coroner or Medical Examiner access to a decedent's mental health treatment records without informed consent for the purpose of conducting a death investigation.